



DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-129, C-570-130]

Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Notice of Intent to Rescind Circumvention Inquiry on the Antidumping and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) notifies interested parties that it intends to rescind a circumvention inquiry to determine whether certain lawn mowers assembled or completed in the United States by attaching Chinese cutting deck shells (attached to at least one significant non-engine component) to internal combustion engines are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on certain walk-behind lawn mowers and parts thereof (lawn mowers) from the People's Republic of China (China).

Interested parties are invited to comment on this intent to rescind.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Yang Jin Chun or Natasia Harrison, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-5760 or (202) 482-1240, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 27, 2022, Commerce initiated a circumvention inquiry to determine whether certain lawn mowers assembled or completed in the United States by attaching Chinese cutting deck shells (attached to at least one significant non-engine component) to internal combustion engines are circumventing the AD and CVD orders on lawn mowers from China under section

781(a) of the Tariff Act of 1930, as amended (the Act).¹ On December 12, 2022, in accordance with 19 CFR 351.226(f)(2), Ningbo Daye Garden Machinery Co., Ltd., Ningbo Lingyue Intelligent Equipment Co., Ltd., and Daye North America, Inc. (collectively, Daye) submitted comments and factual information in response to the *Initiation Notice*.² On January 10, 2023, in accordance with 19 CFR 351.226(f)(2), MTD Products Inc. and its parent company, Stanley Black & Decker, Inc. (collectively, the petitioner), filed comments and factual information to rebut, clarify, or correct the comments and information submitted by Daye on December 12, 2022.³ The preliminary determination of this circumvention inquiry is currently due on March 27, 2023.⁴

For a full discussion of the basis for our intent to rescind this circumvention inquiry, *see* the Memorandum of Intent to Rescind.⁵ A list of topics discussed in the Memorandum of Intent to Rescind is included as the appendix to this notice. The Memorandum of Intent to Rescind is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Memorandum of Intent to Rescind can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

Scope of the Orders

¹ *See Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Initiation of a Circumvention Inquiry on the Antidumping and Countervailing Duty Orders*, 87 FR 65033 (October 27, 2022) (*Initiation Notice*), and accompanying Circumvention Initiation Memorandum; *see also Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam: Antidumping Duty Orders*, 86 FR 36703 (July 13, 2021); and *Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Countervailing Duty Order and Amended Final Affirmative Countervailing Duty Determination*, 86 FR 36702 (July 13, 2021) (collectively, *Orders*).

² *See* Daye's Letter, "Daye's Comments and Submission of Factual Information in Response to the Department's Circumvention Inquiry Initiation" dated December 12, 2022.

³ *See* Petitioner's Letter, "Comments and Factual Information Submitted by MTD Products, Inc and Stanley Black & Decker, Inc. to Rebut, Clarify, or Correct Daye's Submission of Factual Information," dated January 10, 2023. MTD Products, Inc. was the petitioner in the investigation. *See Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China and the Socialist Republic of Vietnam: Initiation of Less-Than-Fair-Value Investigations*, 85 FR 37417 n.1 (June 22, 2020).

⁴ *See* 19 CFR 351.226(e)(1); and *Initiation Notice*, 87 FR at 65035.

⁵ *See* Memorandum, "Certain Walk-Behind Lawn Mowers and Parts Thereof from the People's Republic of China: Memorandum of Intent to Rescind Circumvention Inquiry on the Antidumping and Countervailing Duty Orders," dated concurrently with, and hereby adopted by, this notice (Memorandum of Intent to Rescind).

The products covered by these *Orders* are lawn mowers from China. A full description of the scope of the *Orders* is provided in the Memorandum of Intent to Rescind.

Merchandise Subject to the Circumvention Inquiry

The merchandise subject to this circumvention inquiry are lawn mower sub-assemblies imported from China and comprised of a cutting deck shell attached to at least one other significant non-engine component, such as, but not limited to, a handle, wheels, grass catcher bag, or an electronic starter. These sub-assemblies are assembled or completed in the United States by attaching internal combustion engines to produce rotary walk-behind lawn mowers of the type that would be subject to the *Orders*.⁶ The cutting deck shell is the portion of the lawn mower – typically of aluminum or steel – that houses and protects a user from a rotating blade. Cutting deck shells are typically entered under Harmonized Tariff Schedule of the United States (HTSUS) subheading 8433.11 or 8433.90.

Intent to Rescind Circumvention Inquiry

As explained above, this circumvention inquiry covers cutting deck shells attached to at least one other significant non-engine component, such as, but not limited to, a handle, wheels, grass catcher bag, or an electronic starter. We find that the inquiry merchandise is excluded from the scope of the orders because it is not imported as “at a minimum, a sub-assembly comprised of an engine and a cutting deck shell attached to one another.” We also find that it is not appropriate to conduct a circumvention inquiry on such excluded merchandise. Therefore, Commerce intends to rescind this circumvention inquiry, in accordance with 19 CFR 351.226(f)(6). For more explanation, *see* the Memorandum of Intent to Rescind.

Suspension of Liquidation

Pursuant to 19 CFR 351.226(l)(1), Commerce notified U.S. Customs and Border Protection (CBP) of the initiation of this circumvention inquiry and directed CBP to continue the

⁶ This inquiry does not include lawn mowers assembled or completed in the United States using small vertical engines from China that are covered by the scope of the antidumping and countervailing duty orders on certain vertical shaft engines between 99cc and up to 225 cc, and parts thereof. *See Initiation Notice*, 87 FR at 65034 n.11.

suspension of liquidation of entries of products subject to the circumvention inquiry that were already subject to the suspension of liquidation under the *Orders* and to apply the cash deposit rate that would be applicable if the products were determined to be covered by the scope of the *Orders*.⁷ If Commerce rescinds this circumvention inquiry pursuant to 19 CFR 351.226(f)(6), Commerce will inform CBP accordingly and instruct CBP to continue to suspend entries of lawn mowers from China that are subject to the *Orders* at the applicable rate(s) in effect on the date of entry until specific liquidation instructions are issued.

Public Comment

Interested parties are invited to comment on this notice of intent to rescind this circumvention inquiry. Interested parties may submit comments no later than 14 days after the date of publication of this notice and rebuttal comments, limited to issues raised in the comments, no later than seven days after the time limit for filing comments. Parties who submit comments or rebuttal comments in this circumvention inquiry are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.⁸

Commerce will issue a final decision in this circumvention inquiry, in which we will address comments submitted by parties.

Dated: February 27, 2023.

Abdelali Elouaradia,
*Deputy Assistant Secretary
for Enforcement and Compliance.*

⁷ See CBP Message No. 2305407, dated November 1, 2022.

⁸ See generally 19 CFR 351.309(c)(2) and (d)(2) for guidance.

Appendix

List of Topics Discussed in the Circumvention Initiation Memorandum

- I. Summary
- II. Background
- III. Scope of the *Orders*
- IV. Merchandise Subject to the Circumvention Inquiry
- V. Intent to Rescind the Circumvention Inquiry
- VI. Recommendation

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